
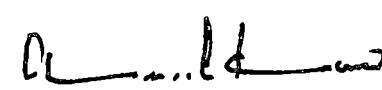


Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ W.P.(C) 6937/2003</p> <p>LT.COL.KARAN JANG THAPA Petitioner Through: Ms. Jyoti Singh, Advocate.</p> <p>versus</p> <p>UOI Respondent Through: Mr. Rajiv Shakdhar, Advocate.</p> <p>CORAM: HON'BLE MR. JUSTICE B.A. KHAN HON'BLE MR. JUSTICE ANIL KUMAR</p> <p><u>ORDER</u> 24.05.2005</p> <p>Petitioner superannuated from Army as Lt. Col. on 31st July, 1995 and was granted re-employment on 18th October, 1995. Petitioner's re-employment was extended and extended employment was to expire on 1st July, 2000 on attaining 56 years of age under prevalent rules at that time.</p> <p>It appears that respondent issued a memorandum dated 13th May, 1998 granting two years' extension in the retirement age of its employees. This memorandum was followed by decision of Ministry of Defence granting the benefit of extension in retirement age from 56 to 58 years to Armed Force personnel. This memorandum, however, fixed a cut of date providing that the extension would be applicable to those who have been employed in service after the date of the issue of memorandum.</p>

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		<p>Some other persons who had been re-employed prior to notification questioned this fixation of the cut of date in writ petition before this Court. The writ petition of those similarly situated persons was allowed vide order dated 23rd January, 2002 whereby a mandamus was issued to respondents to retain such persons up to 58 years of age. Pursuant thereto petitioner also filed a writ petition as had been filed by similarly situated other persons. Petitioners writ was allowed by order dated 23rd January, 2002 and petitioner was to be recalled in service. However, the petitioner's letter of re-employment dated 6th June, 2002 was posted on 6th July, 2002 and his terms of re-employment expired on 1st July, 2002.</p> <p>Thus, petitioner was though recalled in cognizance to the orders by this Court in his writ petition for re-employment. But he could not take benefit of the full extension of two years of 58 years of age as he attained 58 years of age on 1st July, 2002, though order recalling him dated 6th June, 2002 was issued.</p> <p>It seems that some other similarly situated petitioners also faced a similar situation. Therefore, petitioner and other similarly placed petitioners filed writ petitions in the second round and the present petition is one of those writ petitions.</p> <p>A Division Bench of this Court had disposed of other identical writ petitions of some of similarly situated re-employed officers. One of its judgment is dated 23rd November, 2004 passed in Writ Petition No.1017/2002 granting the writ</p>

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		<p>petitioner in that case the back benefits for the period from his exit on reckoning of his retirement age at 56 to the date of expiry after 58 years of age pursuant to memorandum dated 13th May, 2002.</p> <p>This judgment provided: -</p> <p>"In the light of the aforesaid observations and directions, it is ordered that the petitioners herein would be entitled to pay and allowances for the period they were kept out of service by the respondents, namely, from the date of completion of 56 years up to the date of their rejoining. The said period shall also be counted for the purpose of their pension and all other consequential benefits. The writ petitions stand allowed to the aforesaid extent leaving the parties to bear their own cost."</p> <p>Petitioner's case is that his case is also covered by the judgment as his circumstances are similar as of other writ petitioners and he is therefore, entitled to similar benefits.</p> <p>He has filed this application for seeking similar relief and wants the disposal of his writ petition in terms of the judgment of the Division Bench of this Court dated 23rd November, 2004 and in writ petition no.6724/2004.</p> <p>A notice of this application was accepted by Lt. Col. K.M. Rai appearing for respondents on 4th May, 2005. He had sought adjournment on that date to examine whether petitioner's case was covered by the judgment in Writ Petition No.6724/2004, Lt. Col. SPS Rekhi Vs. UOI. No reply has been filed to this application nor has anything been pointed out to us to show that petitioner's case was different and was not covered by the Division Bench judgment dated 23rd November, 2004 passed in Lt. Col. Rekhi's case.</p>

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		<p>We have also gone through the judgment and we find that petitioner's case is squarely covered by it. Writ petition is accordingly required to be disposed of in terms of this judgment. Respondents are, therefore, directed to pay the salary and allowances to the petitioner from 1st July, 2000 to 1st July, 2002 - the period during which he remained out of service and to which he was otherwise entitled to remain in service because of the extension of two years' retirement age. Accordingly, respondents are directed to comply with this order and pass appropriate orders within four months from receipt of this order.</p> <div style="text-align: right;">  P.A. KHAN, J </div> <div style="text-align: right;">  ANIL KUMAR, J </div> <p>MAY 24, 2005 'AA'</p> <p><u>W.P.(C) 6937/2003</u></p>